

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

YOR920030610US1

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on _____

Signature _____

Typed or printed
name _____

Application Number

10/799,052

Filed

March 12, 2004

First Named Inventor

Cole et al.

Art Unit

2167

Examiner

Miranda Le

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record. 36,597

Registration number _____

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Signature

Kevin M. Mason

Typed or printed name

203-255-6560

Telephone number

July 15, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

5 Applicant(s): Cole et al.
Docket No.: YOR920030610US1
Serial No.: 10/799,052
Filing Date: March 12, 2004
Group: 2167
10 Examiner: Miranda Le

Title: Evaluation of Spatial Rules over a Mobile Population

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MEMORANDUM IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW

20 Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

The present invention and prior art have been summarized in Applicants' prior responses.

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STATEMENT OF GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1 through 46 are presently pending in the above-identified patent application. Claims 1-46 are rejected under 35 U.S.C. §102(e) as being anticipated by Richton et al. (United States Patent Number 6,650,902).

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ARGUMENTS

Independent Claims 36-38

Independent claims 36-38 were rejected under 35 U.S.C. §102(e) as being anticipated by Richton et al. In particular, the Examiner asserts that Richton teaches
40 receiving one or more rules (i.e. receiving airline info when within 2 miles of the airport,

col. 3, lines 31-62) from an application (i.e. once the threshold, such as 5 miles from the airport, is triggered based upon the location of the wireless mobile unit 201, information is retrieved and modified and results of the expert system of IPA 330 are output from rule-based suggestion engine 600, formatted in element 650, and eventually output in a data push process 660 to the wireless mobile unit 201, through location-based server 221, col. 13, lines 3-23); and sending (i.e. sending data back to the wireless mobile, col. 3, line 63, to col. 4, line 2) a trigger (i.e. alerting, col. 3, line 63, to col. 4, line 2) to said application based on said one or more rules (i.e. location-based controller 301 is, for example, a computer programmed to orchestrate location-based services, such as those involving sending data back to the wireless mobile unit 201 (examples of data sent including traffic alerting and location-based advertising)). In the Advisory Action, the Examiner further asserts that “rules” correspond to “airline info” because this airline information is integrated into a rule-based decision making of Richton.

Applicants note that the Examiner has equated “receiving one or more rules” with “receiving airline info.” Contrary to the Examiner’s assertion, *airline information* is not equivalent to “one or more *rules*,” as would be apparent to a person of ordinary skill in the art. The Examiner’s statement also contradicts the Examiner’s assertion in the Advisory Action that *airline information is integrated into rule-based decision making; thus, the airline information is not a rule itself.*

More importantly, independent claims 36-38 require *sending a trigger to the same entity (the application) from which the rules are received.* Here, the Examiner alleges that the trigger is sent to the wireless mobile and equates the wireless mobile with the application. Thus, *the rules should be received from the wireless mobile.* The Examiner, however, does *not* allege that rules are received from the wireless mobile, and Applicants could find *no* disclosure or suggestion by Richton of receiving rules from the wireless mobile. Independent claims 36, 37, and 38 require *receiving one or more rules from an application; and sending a trigger to said application* based on said one or more rules.

Furthermore, Applicants note that the Examiner has equated sending a *trigger* to an application with *sending data back to the wireless mobile (alert).* A “trigger,” however, is defined as “anything, as an act or event, that serves as a stimulus and initiates

or precipitates a reaction or series of reactions.” (See, dictionary.com) Contrary to the Examiner’s assertion, Richton does *not* disclose or suggest that *sending data back to the wireless mobile (alert)* initiates a reaction or series of reactions. Thus, as would be apparent to a person of ordinary skill in the art, Richton does *not* disclose or suggest
5 *sending a trigger to the application based on the one or more rules.*

Thus, Richton et al. do not disclose or suggest receiving one or more rules from an application; and sending a trigger to said application based on said one or more rules, as required by independent claims 36, 37, and 38.

Independent Claims 39 and 43

10 Independent claims 39 and 43 were rejected under 35 U.S.C. §102(e) as being anticipated by Richton et al. Regarding claims 39 and 43, the Examiner asserted in the Office Action dated April 2, 2008 that Richton discloses reducing said one or more rules (locations at which services are to be performed, threshold positions/geographic relationships dictating when information is to be obtained, etc., are stored at location-
15 based server 221, col. 7, line 64, to col. 8, line 6) based on subscribers associated with one or more of said nodes.

Applicants note that the Examiner has equated reducing said one or more rules with “locations at which services are to be performed, threshold positions/geographic relationships dictating when information is to be obtained.” The present disclosure
20 teaches, however, that:

Each node can reduce the rules examined by the node by, for example, determining if the entity corresponding to a rule is not within a coverage region defined for the node or, as another example, whether no portion of a particular geographical region to which a rule corresponds is within the coverage region defined for the node. In reduction situations, the reduced rules could, illustratively, be deleted or ignored.
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(Page 2, lines 27-32; emphasis added.)

The act of reducing rules, as required by the cited claims, is an affirmative step. Richton, however, does *not* disclose or suggest the affirmative step of reducing rules. At best,
30 Richton teaches a rule-based decision making where rules are simply stored and await execution. In particular, Richton does not disclose or suggest reducing one or more rules or reducing one or more rules based on subscribers associated with one or more nodes.

Independent claims 39 and 43 require *receiving one or more rules* in one or more nodes; and *reducing said one or more rules based on subscribers* associated with one or more of said nodes.

Thus, Richton et al. do not disclose or suggest receiving one or more rules in a node; and reducing said one or more rules based on subscribers associated with one or more of said nodes, as required by independent claims 39 and 43.

Dependent Claims 1-35, 40-42 and 44-46

Dependent 1-35, 40-42, and 44-46 were rejected under 35 U.S.C. §102(e) as being anticipated by Richton et al.

Claims 1-23, 24, 25-35, 40-42 and 44-46 are dependent on claims 36, 37, 38, 39, and 43, respectively, and are therefore patentably distinguished over Richton et al. because of their dependency from amended independent claims 36, 37, 38, 39, and 43 for the reasons set forth above, as well as other elements these claims add in combination to their base claim.

All of the pending claims following entry of the amendments, i.e., claims 1-46, are in condition for allowance and such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

The Examiner's attention to this matter is appreciated.

Respectfully submitted,



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